

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

Case No. 10-CR-64

ASENCION GAONA,

Defendant.

DECISION AND ORDER

Before the Court is Defendant Asencion Gaona's (Gaona) motion to reduce his sentence pursuant to 18 U.S.C. § 3582(c), which allows a court to reduce a sentence if (1) the U.S. Sentencing Commission (Commission) has lowered the applicable guideline range, and (2) the reduction is consistent with applicable policy statements issued by the Commission.

In Gaona's case the first criterion has been met. However, the Commission's policy statement at USSG § 1B1.10(b)(2) prohibits reduction of a sentence to a term that is "less than the minimum of the amended guideline range." The 132-month sentence imposed by this Court is below guideline under both the original and amended ranges and, therefore, cannot be reduced. The Commission provides an exception for substantial assistance, but the sentence was not the result of co-operation with the government. Gaona fails to meet the second criterion. Accordingly, his

motion must be denied.

IT IS HEREBY ORDERED THAT:

Gaona's motion to reduce sentence (ECF No. 517) is **DENIED**.

Dated at Milwaukee, Wisconsin, this 19th day of August, 2015.

BY THE COURT:


HON. RUDOLPH T. RANDA
U.S. District Judge